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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,767	03/23/2004	Yuko Nishikawa	81235 7114	2440
37123	7590	07/02/2008	EXAMINER	
FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603				TAYLOR, JOSHUA D
ART UNIT		PAPER NUMBER		
2623				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,767	NISHIKAWA ET AL.	
	Examiner	Art Unit	
	JOSHUA TAYLOR	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 March 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/12/2004, 5/1/2008</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 3/13/2008 have been fully considered but they are not persuasive. Applicant states that “[w]hile Fries discloses an aggregate Electronic Programming Guide (EPG) User Interface (UI), Fries does not discuss a first and second plurality of discrete selectable items which differ with respect to a primary transmission service provider. Instead, Fries discusses "lists of cable TV program data 454, local TV program data 434..." etc. displayed in an aggregate EPG UI as exemplified by FIG. 4 (Fries, paragraph 107). However, as depicted in FIG. 4 of Fries, Fries' UI merely lists a single program or channel per service broadcaster, instead of a plurality of discrete selectable items of audio/video content from multiple primary transmission service providers.

Examiner contends that Fig. 4 of Fries does not read on the claim language, as claims 1, 8, and 13 state “**a first plurality of the discrete selectable items of audio/video content differ from a second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider**” and Fig. 4 shows *two or three programs* for each of TV, Sat TV, Local TV, and VoD TV, each program being a discrete selectable items of audio/video content.

In response to applicants argument that Sie does not disclose “**applying at least one selection criterion to the characterizing descriptors of the first and second plurality of discrete selectable items, where the first and second plurality of discrete selectable items**

are found at different sources since the first and second plurality of discrete selectable items differ with respect to the primary transmission service provider,” examiner directs applicant to refer to the rejection of claim 1 below, in which examiner explains that although Sie does not disclose applying selection criteria to first and second pluralities having different sources, examiner states that the combination of Sie and Fries teaches that the method of Sie would be obvious to use in the system of Fries, where there are different sources for the content.

In response to applicant’s arguments regarding claims 5 and 9, examiner respectfully disagrees with applicant, and asserts that the combined teachings of Sie and Fries, as explained in the rejection below, disclose the methods of claims 5 and 9.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-12 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 rejected under 35 U.S.C. 103(a) as being unpatentable over Sie et al. (Pub. No.: US 2003/0233656) in view of Fries et al. (Pub. No.: US 2004/0078807).

Regarding claims 1, 8 and 13, Sie et al. disclose **a method in an audio/video programming guide apparatus, an interactive programming guide, and a method of providing a programming guide** (Figs. 11-15, paragraph [0043], lines 12-15, paragraph [0058], lines 3-5) **comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content** (Sie, paragraph [0047], lines 1-4. Sie discloses that the guide database has characterizing descriptors such as program descriptions, ratings, advertisements, schedule times, etc.), **providing at least one selection criterion** (Sie, Fig. 9, element 920, paragraph [0088], lines 6-12. Sie discloses that a user can manually enter a selection criteria, such as a search term.); **applying the at least one selection criterion with respect to the characterizing descriptors of a first plurality of the discrete selectable items of audio/video content and a second plurality of the discrete selectable items of audio/video content to provide a resultant selection of the first plurality of discrete selectable items of audio/video content and the second plurality of the discrete selectable items of audio/video content** (Sie, paragraph [0090], lines 1-4. Sie discloses that the

guides are customized according to the user preferences. Since in this part of the claim the first and second plurality are not from different service providers, they can be read to be different channels, for example.); **and displaying programming guide information comprising information regarding at least a portion of the resultant selection** (Fig. 15, paragraph [0110]. Sie discloses a linear schedule customized for the user.). However, Sie does not disclose **wherein the first plurality of the discrete selectable items of audio/video content differ from the second plurality of the discrete selectable items of audio/video content with respect to a primary transmission service provider.** However, Fries does (Fig. 4, paragraphs [0098] and [0100], lines 6-9. Fries shows 2 or 3 programs for each of Cable TV, Sat TV, Local TV, and VoD TV, which constitutes a plurality of discrete selectable items). Fries discloses that “with the exemplary EPG manager, the viewer is freed from the repetitive and confusing task of.....conventional approaches, [when] a viewer must browse (or search) each EPG separately (paragraph [0105], lines 1-2 and paragraph [0104], lines 1-2).” Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the aggregated EPG of Fries to enhance the method of Sie so that a user can use the selection criteria of programs from multiple transmission service providers to form a profile and more easily access programs that may be of interest. This would have been a highly desirable feature, as it would allow users who had access to various different service providers to still efficiently sort through incoming program data.

Claim 2 is the method of claim 1, the combination of Sie and Fries teaches comprising:
responding to a remote control by scrolling through the programming guide information

comprising information regarding at least a portion of the resultant selection (Sie, paragraph [0055], lines 6-9).

Claim 3 is the method of claim 1, the combination of Sie and Fries teaches comprising the following feature: **detecting user selection of a particular one of the plurality of discrete selectable items of audio/visual content** (Sie, paragraph [0104], lines 1-4).

Claim 4 is the method of claim 1, the combination of Sie and Fries teaches further comprising: **a user database and wherein providing at least one selection criterion further comprises using information from the user database to characterize the at least one selection criterion to be provided** (Sie, (paragraph [0087]. Sie teaches that user information can be used to characterize selection criterion.).

Claim 5 is the method of claim 4, the combination of Sie and Fries teaches comprising the following feature: **wherein using information from the user database to identify the at least one selection criterion to be provided comprises: accessing information from the user database to discern preferences of a particular user; accessing the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content; comparing the preferences of a particular user to the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content** (Sie, paragraph [0088]-[0090]).

Claim 6 is the method of claim 4, the combination of Sie and Fries teaches further comprising the following feature: **responding to a remote control by selecting a particular**

one of the plurality of discrete selectable items of audio/visual content (Sie, paragraph [0055], lines 6-9).

Claim 7 is the method of claim 1, the combination of Sie and Fries teaches further comprising the following feature: **wherein providing at least one selection criterion comprises: supplying at least one user-defined keyword; and matching the at least one user-defined keyword with at least one of the characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/video content** (Sie, paragraph [0082], lines 7-15).

Claim 9 is the interactive programming guide of claim 8, the combination of Sie and Fries teaches further comprising: **wherein the control circuitry further comprises filter means for comparing the at least one selection criterion with at least some of the characterizing descriptors of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content to provide the resultant selection** (Sie, paragraph [0088], lines 6-12).

Claim 10 is the interactive programming guide of claim 8, the combination of Sie and Fries teaches further comprising the following feature: **wherein the at least one selection criterion is based, at least in part, upon a preference of a present viewer of the interactive programming guide** (Sie, paragraph [0090], lines 1-4).

Claim 11 is the interactive programming guide of claim 8, the combination of Sie and Fries teaches further comprising the following feature: **wherein the at least one selection criterion comprises a user-defined keyword** (Sie, see paragraph [0088], lines 6-9).

Claim 12 is the interactive programming guide of claim 8, the combination of Sie and Fries teaches further comprising the following feature: **wherein the at least one selection criterion is retained in a database** (Sie, see paragraph [0049], Lines 3-5).

Claim 14 is the method of claim 13, the combination of Sie and Fries teaches further comprising the following feature: **wherein providing at least one selection criterion that corresponds to a given individual further comprises ascertaining an identity of a present viewer** (Sie, paragraph [0090], lines 6-9).

Claim 15 is the method of claim 14, the combination of Sie and Fries teaches further comprising the following feature: **wherein providing at least one selection criterion that corresponds to a given individual further comprises using the identity to recall at least one previously stored selection criterion** (Sie, see paragraph [0091], lines 4-7).

Claim 16 is the method of claim 1, the combination of Sie and Fries teaches further comprising the following feature: **wherein displaying programming guide information further comprises displaying programming guide information comprising information regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable items of audio/video content and the second plurality of discrete selectable items of audio/video content** (Sie, Fig. 15, paragraph [0110]).

Claim 17 is the method of claim 13, the combination of Sie and Fries teaches further comprising the following feature: **wherein displaying programming guide information further comprises displaying programming guide information comprising information**

regarding at least a portion of the resultant selection, wherein the resultant selection includes two or more discrete selectable items of audio/video content from at least one of the first plurality of discrete selectable audio/visual programs and the second plurality of discrete selectable audio/visual programs (Sie, Fig. 15, paragraph [0110]).

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623